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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/538,351

03/29/2000

Katherine H. Guo

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3-3-2-22-2

6141

26291

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08/06/2003

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EXAMINER

ENGLAND, DAVID E

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 08/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/538,351

Applicant(s)

GUO ET AL.

Examiner

David E. England

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. Claims 1 – 13 are presented for examination.

#### *Claim Objections*

1. Claim 10 is objected to because of the following informalities: Claim 10 references claim 1 as its parent claim instead of claim 9 to which it would be assumed to be in. Appropriate correction is required.
2. Claim 11, (the second one), is objected to because of the following informalities: There are two claim 11's. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyal U.S. Patent No. 6484199 in view of Herz U.S. Patent No. 6029195.
3. As per claim 1, Eyal teaches a method for distributing a streaming multimedia (SM) object in a network having a content server which hosts SM objects for distribution over said network through a plurality of helpful servers (HSs) to a plurality of clients, said method comprising:
4. calculating at said content server a server hotness rating for said SM objects hosted thereon, (e.g. col. 12, lines 37 – 67 & col. 30, line 13 – col. 31, line 63);

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5. performing a categorization process, wherein each of said SM objects hosted by said content server are categorized into one of a plurality of server hotness categories based on each of said SM object's calculated server hotness rating, (e.g. col. 12, lines 37 – 67 & col. 30, line 13 – col. 31, line 63); but does not specifically teach multicasting from said content server at least one of said SM objects hosted thereon to a fraction of said plurality of HSs in the network, said fraction being determined according to said SM object's hotness category. Herz teaches multicasting from said content server at least one of said SM objects hosted thereon to a fraction of said plurality of HSs in the network, said fraction being determined according to said SM object's hotness category, (e.g. col. 45, lines 13 – 33). It would have been obvious to one skilled in the art at the time the invention was made to combine Herz with Eyal because it would be more efficient for a system to multicast data to a plurality of servers that could handle multiple users in a system that has potential to grow with more users and more media data that is being produced, (i.e. records and movies).

6. As per claim 2, Eyal teaches the step of associating a fraction to each of said plurality of predetermined hotness categories, (e.g. col. 8, line 46 – col. 25 & col. 26, lines 19 – 46 & col. 12, lines 37 – 67), but does not teach multicasting said SM objects. Herz teaches multicasting said SM objects, (e.g. col. 45, lines 13 – 33). It would have been obvious to one skilled in the art at the time the invention was made to combine Herz with Eyal because of similar reasons stated above.

7. As per claim 3, Eyal teaches the server hotness rating for each of said SM object's hosted by said content server is calculated as the sum of a plurality of helper hotness ratings, wherein the helper hotness rating for an SM object hosted by one of said plurality of HSs is defined as a total number of client requests for said SM object requested from said one of said plurality of HSs divided by a time span in which said client requests are received, (e.g. col. 30, line 13 – col. 31, line 63).

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8. A method as recited in claim 1, wherein each of said plurality of server hotness categories are defined by a lower server hotness rating value and an upper server hotness rating value, (e.g. col. 30, line 13 – col. 31, line 63).

9. Claims 4 – 13 are rejected for similar reasons as stated above.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. a. Hosken U.S. Patent No. 6438579 discloses Automated content and collaboration-based system and methods for determining and providing content recommendations.

12. b. Malkin et al. U.S. Patent No. 5940391 discloses Method and apparatus for reconfigurable and adaptive stream multicast.

13. c. Malkin et al. U.S. Patent No. 6317795 discloses Dynamic modification of multimedia content.

14. d. Iida U.S. Patent No. 6209787 discloses Global access system of multi-media related information.

15. e. Walinski U.S. Patent No. 6381314 discloses Internet audio channel selection system.

16. f. Logan et al. U.S. Patent No. 6199076 discloses Audio program player including a dynamic program selection controller.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 703-305-5333. The examiner can normally be reached on Mon-Thur, 7:00-5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are none for regular communications and none for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is none.

David E. England  
Examiner  
Art Unit 2143

De   
August 1, 2003

  
DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100